



Senate

General Assembly

File No. 194

February Session, 2014

Substitute Senate Bill No. 280

Senate, March 31, 2014

The Committee on Insurance and Real Estate reported through SEN. CRISCO of the 17th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING UNINSURED AND UNDERINSURED MOTORIST COVERAGE OFFSETS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 38a-336 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2015*):

3 (a) (1) Each automobile liability insurance policy shall provide
4 insurance, herein called uninsured and underinsured motorist
5 coverage, in accordance with the regulations adopted pursuant to
6 section 38a-334, with limits for bodily injury or death not less than
7 those specified in subsection (a) of section 14-112, for the protection of
8 persons insured thereunder who are legally entitled to recover
9 damages from owners or operators of uninsured motor vehicles and
10 underinsured motor vehicles and insured motor vehicles, the insurer
11 of which becomes insolvent prior to payment of such damages,
12 because of bodily injury, including death resulting therefrom. Each
13 insurer licensed to write automobile liability insurance in this state
14 shall provide uninsured and underinsured motorists coverage with

15 limits requested by any named insured upon payment of the
16 appropriate premium, provided each such insurer shall offer such
17 coverage with limits that are twice the limits of the bodily injury
18 coverage of the policy issued to the named insured. The insured's
19 selection of uninsured and underinsured motorist coverage shall apply
20 to all subsequent renewals of coverage and to all policies or
21 endorsements which extend, change, supersede or replace an existing
22 policy issued to the named insured, unless changed in writing by any
23 named insured. No insurer shall be required to provide uninsured and
24 underinsured motorist coverage to (A) a named insured or relatives
25 residing in his household when occupying, or struck as a pedestrian
26 by, an uninsured or underinsured motor vehicle or a motorcycle that is
27 owned by the named insured, or (B) any insured occupying an
28 uninsured or underinsured motor vehicle or motorcycle that is owned
29 by such insured.

30 (2) Notwithstanding any provision of this section, each automobile
31 liability insurance policy issued or renewed on and after January 1,
32 1994, shall provide uninsured and underinsured motorist coverage
33 with limits for bodily injury and death equal to those purchased to
34 protect against loss resulting from the liability imposed by law unless
35 any named insured requests in writing a lesser amount, but not less
36 than the limits specified in subsection (a) of section 14-112. Such
37 written request shall apply to all subsequent renewals of coverage and
38 to all policies or endorsements that extend, change, supersede or
39 replace an existing policy issued to the named insured, unless changed
40 in writing by any named insured. No such written request for a lesser
41 amount shall be effective unless any named insured has signed an
42 informed consent form that shall contain: (A) An explanation of
43 uninsured and underinsured motorist insurance approved by the
44 commissioner; (B) a list of uninsured and underinsured motorist
45 coverage options available from the insurer; and (C) the premium cost
46 for each of the coverage options available from the insurer. Such
47 informed consent form shall contain a heading in twelve-point type
48 and shall state: "WHEN YOU SIGN THIS FORM, YOU ARE
49 CHOOSING A REDUCED PREMIUM, BUT YOU ARE ALSO

50 CHOOSING NOT TO PURCHASE CERTAIN VALUABLE
51 COVERAGE WHICH PROTECTS YOU AND YOUR FAMILY. IF YOU
52 ARE UNCERTAIN ABOUT HOW THIS DECISION WILL AFFECT
53 YOU, YOU SHOULD GET ADVICE FROM YOUR INSURANCE
54 AGENT OR ANOTHER QUALIFIED ADVISER."

55 (b) An insurance company shall be obligated to make payment to its
56 insured up to the limits of the policy's uninsured and underinsured
57 motorist coverage after the limits of liability under all bodily injury
58 liability bonds or insurance policies applicable at the time of the
59 accident have been exhausted by payment of judgments or settlements,
60 but in no event shall the total amount of recovery from all policies,
61 including any amount recovered under the insured's uninsured and
62 underinsured motorist coverage, exceed the limits of the insured's
63 uninsured and underinsured motorist coverage. In no event shall there
64 be any reduction of uninsured or underinsured motorist coverage
65 limits or benefits payable (1) for amounts received by the insured for
66 Social Security disability benefits paid or payable pursuant to the
67 Social Security Act, 42 USC Section 301, et seq., or (2) with respect to an
68 automobile liability insurance policy issued or renewed on or after
69 October 1, 2015, (A) for amounts paid by or on behalf of any tortfeasor
70 for bodily injury to anyone other than individuals insured under the
71 policy against which the claim is made, or (B) for amounts paid by or
72 on behalf of any tortfeasor for property damage. The limitation on the
73 total amount of recovery from all policies shall not apply to
74 underinsured motorist conversion coverage purchased pursuant to
75 section 38a-336a.

76 (c) Each automobile liability insurance policy issued on or after
77 October 1, 1971, which contains a provision for binding arbitration
78 shall include a provision for final determination of insurance coverage
79 in such arbitration proceeding. With respect to any claim submitted to
80 arbitration on or after October 1, 1983, the arbitration proceeding shall
81 be conducted by a single arbitrator if the amount in demand is forty
82 thousand dollars or less or by a panel of three arbitrators if the amount
83 in demand is more than forty thousand dollars.

84 (d) Regardless of the number of policies issued, vehicles or
85 premiums shown on a policy, premiums paid, persons covered,
86 vehicles involved in an accident, or claims made, in no event shall the
87 limit of liability for uninsured and underinsured motorist coverage
88 applicable to two or more motor vehicles covered under the same or
89 separate policies be added together to determine the limit of liability
90 for such coverage available to an injured person or persons for any one
91 accident. If a person insured for uninsured and underinsured motorist
92 coverage is an occupant of a nonowned vehicle covered by a policy
93 also providing uninsured and underinsured motorist coverage, the
94 coverage of the occupied vehicle shall be primary and any coverage for
95 which such person is a named insured shall be secondary. All other
96 applicable policies shall be excess. The total amount of uninsured and
97 underinsured motorist coverage recoverable is limited to the highest
98 amount recoverable under the primary policy, the secondary policy or
99 any one of the excess policies. The amount paid under the excess
100 policies shall be apportioned in accordance with the proportion that
101 the limits of each excess policy bear to the total limits of the excess
102 policies. If any person insured for uninsured and underinsured
103 motorist coverage is an occupant of an owned vehicle, the uninsured
104 and underinsured motorist coverage afforded by the policy covering
105 the vehicle occupied at the time of the accident shall be the only
106 uninsured and underinsured motorist coverage available.

107 (e) For the purposes of this section, an "underinsured motor vehicle"
108 means a motor vehicle with respect to which the sum of the limits of
109 liability under all bodily injury liability bonds and insurance policies
110 applicable at the time of the accident is less than the applicable limits
111 of liability under the uninsured motorist portion of the policy against
112 which claim is made under subsection (b) of this section.

113 (f) Notwithstanding subsection (a) of section 31-284, an employee of
114 a named insured injured while occupying a covered motor vehicle in
115 the course of employment shall be covered by such insured's otherwise
116 applicable uninsured and underinsured motorist coverage.

117 (g) (1) No insurance company doing business in this state may limit
118 the time within which any suit may be brought against it or any
119 demand for arbitration on a claim may be made on the uninsured or
120 underinsured motorist provisions of an automobile liability insurance
121 policy to a period of less than three years from the date of accident,
122 provided, in the case of an underinsured motorist claim the insured
123 may toll any applicable limitation period (A) by notifying such insurer
124 prior to the expiration of the applicable limitation period, in writing, of
125 any claim which the insured may have for underinsured motorist
126 benefits and (B) by commencing suit or demanding arbitration under
127 the terms of the policy not more than one hundred eighty days from
128 the date of exhaustion of the limits of liability under all automobile
129 bodily injury liability bonds or automobile insurance policies
130 applicable at the time of the accident by settlements or final judgments
131 after any appeals.

132 (2) Notwithstanding the provisions of subdivision (1) of this
133 subsection, in the case of an uninsured motorist claim, if the motor
134 vehicle of a tortfeasor is an uninsured motor vehicle because the
135 automobile liability insurance company of such tortfeasor becomes
136 insolvent or denies coverage, no insurance company doing business in
137 this state may limit the time within which any suit may be brought
138 against it or any demand for arbitration on a claim may be made on
139 the uninsured motorist provisions of an automobile liability insurance
140 policy to a period of less than one year from the date of receipt by the
141 insured of written notice of such insolvency of, or denial of coverage
142 by, such automobile liability insurance company.

This act shall take effect as follows and shall amend the following sections:		
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Section 1	October 1, 2015	38a-336
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INS *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact: None

Municipal Impact: None

Explanation

The bill specifies additional requirements for automobile liability insurance. As this concerns private insurance transactions, there is no state or municipal impact.

The Out Years

State Impact: None

Municipal Impact: None

OLR Bill Analysis**sSB 280*****AN ACT CONCERNING UNINSURED AND UNDERINSURED MOTORIST COVERAGE OFFSETS.*****SUMMARY:**

This bill prohibits insurers from reducing uninsured and underinsured motor vehicle insurance coverage payments by amounts paid by or on behalf of a tortfeasor (i.e., person at fault) for (1) bodily injury to anyone other than people insured by the policy under which the claim is made or (2) property damage. Thus, the insurer can reduce the coverage payment by amounts a tortfeasor paid for bodily injury to a person insured by the policy.

The bill applies to auto liability insurance policies issued or renewed on or after October 1, 2015.

EFFECTIVE DATE: October 1, 2015

BACKGROUND***Uninsured and Underinsured Motorist Coverage***

Uninsured motorist coverage compensates a policyholder for expenses incurred when another driver who is at fault for an accident has no auto liability insurance or is a hit-and-run driver. Underinsured motorist coverage compensates a policyholder when the at-fault driver has an insufficient amount of auto liability insurance.

Related Bill

HB 5061, which the Judiciary Committee reported favorably, prohibits insurers from denying uninsured motorist coverage to a named insured or related household member solely because he or she is struck as a pedestrian by, and during the theft of, a covered vehicle the insured owns.

COMMITTEE ACTION

Insurance and Real Estate Committee

Joint Favorable Substitute

Yea 19 Nay 0 (03/13/2014)